

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 4:96 CR 58 JCH
)
 CORNELL SMITH,)
)
 Defendant.)

On February 13, 2006, defendant Cornell Smith was brought before the court for a preliminary supervised release revocation hearing and for a detention hearing upon the motion of the United States that defendant be detained under the Bail Reform Act of 1984, 18 U.S.C. § 3142(d).

On June 27, 1996, defendant was sentenced to 120 months imprisonment, followed by 36 months supervised release, for being a felon in possession of a firearm. He served his imprisonment and was released to supervision on December 27, 2004.

Defendant is charged by Probation Office petition with violating the conditions of his supervised release in the following respects: (a) possessing cocaine and drug paraphernalia on December 20, 2005; (b) failing to report for counseling in December 2005; (c) testing positive for cocaine use in May and July 2005; (d) possessing material used to dilute cocaine in August 2005; and (e) associating with a felon. Following the evidence adduced at the hearing the court found probable cause to believe defendant violated the conditions of supervised release as alleged.

On the issue of release or detention, the court adopts the statement of facts set forth in the written report of the Pretrial Services Officer, which is incorporated by reference in this order. Upon this record, and the evidence adduced at the preliminary hearing, the court finds by clear and convincing evidence that the release of defendant Cornell Smith upon his own recognizance, an unsecured appearance bond, or any condition of release will not reasonably protect the community from further criminal acts by him and will not reasonably assure that he will appear in court as required.

18 U.S.C. § 3142(b), (c). The potential penalty of future imprisonment, if revoked, is a strong incentive for flight. The defendant's current daily use of heroin, cocaine, and alcohol will inhibit his ability to comply with conditions of release. He has used seven alias names, which would make him more difficult to recapture if he flees. He has violated conditions of release in the past. He has been convicted of serious offenses in the past.

Whereupon,

IT IS HEREBY ORDERED that the motion of the United States for pretrial detention of defendant Cornell Smith is sustained. Defendant is committed to the custody of the United States Marshal until further order.

IT IS FURTHER ORDERED that defendant Cornell Smith appear before District Judge Jean C. Hamilton for a final supervised release revocation hearing on March 2, 2006, at 2:00 p.m.

A handwritten signature in cursive script, reading "David D. Noce". The signature is written in dark ink and is positioned above a horizontal line.

DAVID D. NOCE
UNITED STATES MAGISTRATE JUDGE

Signed on February 15, 2006 .